

REMARKS

The undersigned attorney discussed the final rejections by telephone with the examiner on 30 July 2007. That discussion, as summarized in an Interview Summary submitted on the same day by the undersigned, ended with the understanding that the examiner would give full consideration to the below arguments. To that end, the undersigned has tried to keep the arguments clear and concise, to make the best use of the examiner's time.

The Final Office Action alleges that Amin (US 6,630,883) anticipates claims 1, 6, 8-10, 13, 15-17, 19, 20, 22, 23, 27, and 29 under 35 U.S.C. § 102(e). The law establishes a high legal bar for anticipation; namely, a reference anticipates a claim only if the reference teaches (implicitly or explicitly) every limitation of the claim, in the identical arrangement as claimed.

Independent Claims 1, 17, and 27 are not anticipated

All rejected claims relate to signaling an incoming voice call to a user's mobile station over an existing packet data traffic channel, and then reconfiguring that packet data channel for delivering the voice call (as opposed to the less efficient conventional approach of establishing a new traffic channel for the voice call).

Amin utterly fails to disclose (or even hint at) these claim limitations. Amin in its entirety is directed to sending a notification to user equipment that a message has been received/stored for the user equipment, without having to deliver the message itself. Amin does not teach sending a voice call notification to a mobile station busy in a packet data call, via the packet data traffic channel, nor does Amin by any stretch of logic disclose reconfiguring an existing packet data traffic channel for use in delivering a voice call. The 102 rejections will be overturned on Appeal for the simple reason that Amin does not provide the teachings alleged by in the Final Office Action.

In more detail, in rejecting claims 1, 17, and 27, the Final Office Action states that Amin teaches receiving an incoming voice call for a mobile station busy in a packet-switched data

call, sending an incoming call notification to the mobile station via signaling over an existing traffic channel allocated to the data call, reconfiguring the existing (packet data) traffic channel to support the voice call, and delivering the voice call to the mobile station via the reconfigured traffic channel. Final Office Action, pp. 2-3. Amin teaches none of these limitations.

For example, the Final Office Action states that Fig. 1, elements 10 and 20, and col. 7, lines 4-5 of Amin teach sending a notification of an incoming voice call over the existing packet-switched data channel of a mobile station busy in a packet-switched data call. Element 20 in Fig. 1 of Amin simply is a Private Base Station (PBS) in a private network, and element 10 is a mobile station. Neither element is disclosed as supporting packet data calls as distinguished from voice calls, nor do Amin's descriptions of these elements relate in any way to the claimed limitation.

Moreover, col. 7, lines 3-9 of Amin state:

The private base station 20 detects the ring for an incoming call and sends an alerting signal or page to the registered mobile station. Following the mobile station's response to the alerting signal, private base station 20 establishes a traffic channel for the mobile station and generates an off-hook condition to connect the incoming call through the private base station to the mobile station.

(Emphasis added.) It is notable that the Final Office Action states that lines 4-5 and 5-7 of col. 7 (included in the above excerpt) teach the explicitly claimed limitations of using an existing packet data traffic channel to signal an incoming voice call, and reconfiguring that packet data channel for delivering the voice call.

Obviously, the cited passage of Amin does not support the rejection. First, it makes no reference to a packet-switched data call (or any type of call) being in progress. Second, it explicitly describes *establishing* a traffic channel to connect an incoming call. Applicant submits that establishing a traffic channel self-evidently is not the same as the claimed reconfiguring of a preexisting packet data traffic channel for use in delivering an incoming voice call.

Independent claims 1, 17, and 27 all include limitations to reconfiguring or renegotiating an existing packet data traffic channel for use in delivering an incoming voice call. Amin offers no teachings relevant to those limitations and contrary assertions in the Final Office Action are wholly unsupported by Amin. For this reason alone, all anticipation rejections fail as a matter of law.

None of the dependent claims are anticipated

The pending dependent claims 6, 8-10, 13, 15, 16, 19, 20, 22, 23, and 29 are not anticipated by Amin because the corresponding independent claims 1, 17, and 27 are patentable over Amin. Further, the dependent claims include additional claim limitations that demonstrably are not taught (or even hinted at) by Amin.

For example, claim 6 stipulates suspending or ending a data transaction that was being supported by the packet data traffic channel before it was reconfigured for delivering the incoming voice call. The Office Action states that col. 7, lines 8-9 of Amin teach this limitation. That cited passage of Amin states:

[P]rivate base station 20 establishes a traffic channel for the mobile station and generates an off-hook condition to connect the incoming call through the private base station to the mobile station.

Obviously, the cited passage says nothing relevant to the explicit limitations of claim 6. Notably, the private base station 20 is not described anywhere in Amin as supporting packet-switched communications with a mobile station, and certainly is not described as reconfiguring a packet data traffic channel for delivering an incoming voice call. Amin at col. 8, line 51 does mention that the private base station 20 may communicate with other private base stations/visitor location registers through a public telephone network using, e.g., an X.25 packet protocol. That statement, however, has nothing to do with Amin's explicit description of establishing new traffic channels for delivering an incoming voice call.

Additionally, claim 9 stipulates determining whether the data call is, in a first case, a circuit-switched data call or, in a second case, a packet data call requiring a return indication from the mobile station that indicates call delivery is desired before renegotiating the existing traffic channel. Amin never once mentions data calls (versus voice calls) for mobile stations, much less discusses distinguishing between circuit-switched versus packet-switched data calls, and requiring a return indication from the mobile station before renegotiating a packet-switched traffic channel for use in delivering an incoming voice call.

The Final Office Action alleges that claim 9 is anticipated by Amin simply by referring broadly to Amin, Fig. 4 and its description. Fig. 4 in Amin is a flow diagram identifying how a PC receives an email and alerts a cellular network about the new email, so that a Mobile Switching Center in the network can send a notification to a mobile station about the new email. These operations have no relevance to the rejected claim language, and it is exactly this lack of evidentiary support for the rejection arguments that Applicant will detail in its Appeal Brief.

As an additional example of claim rejections not supported in any sense by the evidentiary record developed by the Patent Office, dependent claim 16 stipulates sending a voice service call setup request message to a Mobile Switching Center (MSC) comprising generating default voice service parameters at the [base station] BS rather than receiving requested voice service parameters from the mobile station. The rejection made against claim 16 does not refer to its limitations, but rather is lumped in with the (unsupported) rejections of claims 8 and 15.

Indeed, the Office Action rejections in several instances fail in any way to direct themselves to the claim language at hand, or to the differences in limitations between the rejected dependent claims. For example, dependent claim 29 includes the following limitations:

The method of claim 27, wherein carrying on a data call over an existing traffic channel comprises carrying on a packet data call, and wherein renegotiating the existing traffic channel for voice call use responsive to signaling from the network comprises:

receiving a call notification from the network via signaling on the existing traffic channel indicating that an incoming voice call is pending for the mobile station;
returning a notification response to the network via signaling on the existing traffic channel based on prompting a user of the mobile station as to whether receipt of the incoming voice call is desired;
sending and receiving signaling as needed to and from the network via the existing traffic channel to reconfigure it for voice use; and
receiving an alert message from the network via signaling on the existing traffic channel indicating that the incoming voice call is set up and returning a call connect order to the network via signaling on the existing traffic channel.

(Emphasis added.) The rejection given against claim 29 simply states that Amin teaches “reconfiguring the existing traffic channel for use delivering [sic] the incoming voice call to the mobile station comprises establishing a new service option connection at a network Base Station (BS) and requesting a network Mobile Switching Center (MSC) to establish a voice connection for the incoming voice call (see fig. 4 and its description).” Final Office Action, p. 3.

As Applicant previously described, Fig. 4 of Amin discloses a personal computer (PC) that receives an email and alerts a cellular network, wherein an MSC in that network sends an indication of the new email to a user’s mobile station. Obviously, that teaching cannot be argued as supporting the examiner’s allegation; moreover, the allegation itself fails in any way to address the claim limitations at issue for claim 29.

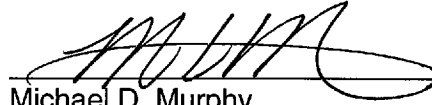
This pattern of ignoring the actual claim language and mischaracterizing Amin’s actual teachings is employed throughout the Final Office Action, both for the dependent claims and the independent claims. Applicant will address each such error in detail, whether in a pre-appeal brief review or before the Appeal Board in the Appeal Brief.

Closing

Amin demonstrably does not support the examiner’s anticipation allegations. Therefore, Applicant respectfully requests that the examiner withdraw the final rejection and consider the instant application in condition for allowance over Amin.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.

A handwritten signature in black ink, appearing to read 'M. D. Murphy', written over a horizontal line.

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